

**MINUTES OF THE REGULAR MEETING OF THE
WASHINGTON STATE TRANSPORTATION COMMISSION
September 15 & 16, 2004**

The regular meeting of the Washington State Transportation Commission was called to order at 9:00 a.m., on September 15 & 16, 2004 in Room 1D2 of the Transportation Building in Olympia, Washington.

Commissioners present at the meeting were: Chair Stedman, Ed Barnes, Aubrey Davis, Ruth Fisher, Richard Ford, Elmira Forner, A. Michèle Maher, and Dan O'Neal.

APPROVAL OF MINUTES

It was moved by Commissioner Maher, and seconded by Commissioner Davis to approve meeting minutes for June 16 & 17, 2004. The motion passed unanimously.

TOUR OF TACOMA NARROWS BRIDGE PROJECT

Commissioners joined representatives from the Department of Transportation for a tour of the Tacoma Narrows Bridge Project from 8:35 am to 1:30 pm, June 16, 2004.

WASHINGTON STATE FERRIES QUARTERLY BUSINESS AND FINANCIAL UPDATE

Mike Thorne, Chief Executive Officer, reviewed the Basic Strategic Business Plan stating the goals and the mission WSF is attempting to accomplish. He noted safety and security are of significant importance to the overall operations and providing reliable, cost effective transportation services. Mr. Thorne reported that Ferries accomplished the goals of the 2002 Strategic Business Plan. After the failure of Referendum 51, the WSF decided to update the existing Strategic Business Plan with four initiatives. These four initiatives were to continually improve and refine the business process, to broaden the revenue base and reduce costs, to promote and assist in the planning of regional transportation centers and re-define who Ferries are. The Capital Funding Plan, known as the 5+5+5 plan, was developed to focus on a two year strategy to reduce costs, change the schedule on fare increases and find new revenue. 5+5+5 defined is: 5% cost reduction, 5% fare increases and 5% in new revenue. The business plan together with the new capital funding plan have been successfully implemented and positioned WSF to help capitalize its aging infrastructure. Mr. Thorne mentioned the savings in operating costs were rolled over to cover costs of fuel increases. He also pointed out the success of managing fuel consumption by using strategies such as, reducing speed one half of a notch without affecting scheduling, and eliminating the Bremerton foot ferry which was fuel inefficient.

Mr. Thorne reported that with financial goals on track, WSF is moving forward with goals for performance improvements and building core missions. Five new initiatives have been set: to

develop labor and workforce strategy with a relationship where the gains are shared, to develop a long term service plan, to develop systems and processes that support financial performance, efficiency and accountability; to revise existing communications plan and to develop a project management ethic and approach. WSF is moving forward with work on these initiatives and are in beginning stages of improving these areas.

Sam Kuntz, Chief Financial Officer, reviewed revenue reports and revenue opportunities. Ridership has increased 3.3% from predictions, thus bringing in fare revenues 4.4% higher than predictions.

Mr. Kuntz reported the new initiatives generating federal funding have realized an \$83 million increase to the Capital Program. He reviewed additional federal funding approved by Legislature for 2003-05, which was reflected in the June update and noted WSF has had further success in searching for federal funding. Mr. Kuntz reviewed construction program expenditures, as well as terminal and vessel preservation performances. He outlined activities completed and upcoming milestones to achieve in regards to the new vessel construction, including highlights of the design features.

In summary, Mr. Thorne stated that WSF set out to reduce costs, generate additional revenues, and implement responsible fare policies to flatten rather than spike increased fares. WSF has been successful with these goals and continues to move forward focusing on continuous improvement.

Secretary MacDonald commented on Mr. Thorne's recent resignation, thanking him for his service at Washington State Ferries and commended him for his remarkable progress in addressing critical issues within the Ferry Systems and implementing the work that has been done over the last two years. Secretary MacDonald announced he would step in as acting-Director of WSF and continue building on the progress and attention WSF has achieved, remaining on the course Mike Thorne and his team constructed. Secretary MacDonald expressed concern that as this transition takes place, WSDOT must communicate to the public that the notion of the 5+5+5 Plan is a "Long-Term" strategic plan that will continue to build upon financing for capital renewal of WSF and will be achieved as a process. The Department will work hard to keep the goals of the Strategic Business Plan set forth by Mr. Thorne and maintain a reliable, sustainable transportation asset to the public. Secretary MacDonald expressed recognition of the most important aspect of maintaining the Ferry Systems in this transitional phase is running a safe and secure operation. Secretary MacDonald noted the current Bremerton breakwater issue is being addressed, taking into consideration the previous engineering contributions in regards to design, state financial contribution, and legal agreements drawn up from the existing structure.

Secretary MacDonald briefly commented on labor negotiation issues, noting the briefing papers being prepared by Mr. Thorne's team will assist the Department in understanding long range strategic objectives hoped to achieve and how to achieve those objectives in the bargaining process. He pointed out discussion regarding gain sharing for labor negotiations are limited to metal trade workers at Eagle Harbor.

Commissioner Stedman opened the floor for Commissioners to express farewell comments to Mike Thorne for his dedicated service to the WSF. Commissioners comments were complimentary to his contributions to WSF, mentioning his development of a solid staff, successful strategic plans, and his efforts to create a successful course for the Ferry System to continue building upon. Each Commissioner expressed gratitude for Mr. Thorne's hard work and their regret his services to WSF is coming to an end.

URBAN CORRIDORS OFFICE UPDATE

Dave Dye, Urban Corridors Office Administrator, updated the Commission on the status of the Alaska Way Viaduct Project (AWV). He informed the Commission that the Environmental Impact Statement (EIS) is being done on the remaining two choices for this project and a draft EIS will be ready for discussion next month. The two choices still under consideration are either constructing a Tunnel or Rebuilding the existing structure. Mr. Dye stated that the hope is to complete the preliminary work to arrive at the stage of choosing the preferred option for this project by November 2004. He explained key elements being considered are; the seismic and structural deficiencies, keeping the system intact especially for entities like the Port of Seattle, finding answers to the staging of the project and being able to enhance the design in and around the waterfront.

Commissioner Stedman inquired about the survey recently published in the newspaper with public opinion on which project option is preferred. Mr. Dye pointed out the importance of realizing this was not an official survey, this was an opinion survey done by the newspaper, and the popular opinion from that particular survey was in favor of the Rebuild strategy. However, he noted that when the environmental impact study discussions were occurring, there were 700-800 responses in favor of the Tunnel strategy.

Commissioner Barnes inquired about the interest in an impact study on the economy of Seattle if this corridor became inoperable before the project gets underway. Mr. Dye reported that an Economic Study is being done by a hired Economic Consultant to not only evaluate the impact on the City of Seattle, also including the economic impact on the Puget Sound, Washington State, the West Coast and the trade impact on the USA as a whole.

Commissioner Forner inquired about the consideration of creating a world-class waterfront area to enhance the tourism appeal, mentioning cities like Sydney, Australia. Mr. Dye noted enhancement of the area is being considered, along with the priorities of replacing the AWW.

Commissioner Fisher asked who will make the final decisions on which project option will be constructed and how the decision will be based. Mr. Dye reported that there are three parties leading discussions; WSDOT, the City of Seattle and Federal Highways. He noted that there are many other entities involved in discussions such as the Ports, local and state elected officials and other interested parties.

Craig Stone, I-405 Project Manager, updated the Commission on the status of the I-405 Kirkland Nickel Project. He reported the cost benefit and economic analysis of adding one lane in each direction leads to an 11-1 benefit, meaning for every dollar spent an \$11 safety benefit is provided. WSDOT is using the Design-Build Process for the delivery tool. The Design-Build Process is structured in a way that sets up goals for the project to clarify where the project is going, the quality of the message presented, to keep the community involved and determines who the contractors will be that provide the best cost value along with the best time schedule reducing impact on the community. It also provides guidance for how decisions are made during the bidding and construction phases. He reported by using the Design-Build Process, the Department is on budget and ahead of schedule by several months. The five goals leading the Design-Build Process are: that maintenance is straight forward, to exceed technical and design construction, to meet or exceed environmental regulations, to maintain community support and to minimize traffic impacts. Mr. Stone explained the Request for Proposal (RFP) and Request for Contractor Qualifications (RFQ) used in the bidding process. He also discussed the valuable resource in using the Multi-Agency Permit Team (MAPT) for environmental project permits. Mr. Stone noted monthly meetings have been held with the Kirkland Advisory Committee, which includes city, local business and citizen representatives, and provides timely feedback as the design for the project progresses. Mr. Stone noted this would be the fourth project built by the Design-Build method. The project's RFP has strong emphasis on early completion and minimizing impacts to traffic and the environment as well as keeping the project on budget. The Design-Build process has presented WSDOT with new challenges, creating an aggressive approach on project goals, and assisted in building good relationships with resource agencies and the community. The Department has learned to create effective teams with consultants and the private industry and has avoided conflicts ahead of time while using the Design-Build method.

2005 SUPPLEMENTAL BUDGET

Bill Ford, Chief of Budget Services, introduced the two Amendments to the 2003-05 budget. The Amendments totaled \$12 million and will be used for increased ferry fuel costs and an increase for insurance covering the WSF basic policy and the new war risk insurance coverage. He briefly described elements of both increases.

It was moved by Commissioner Maher to approve the Supplemental Budget Request, and seconded by Commissioner Davis. The motion was approved unanimously.

EXECUTIVE SESSION ON PERSONNEL MATTER

The Commission retired to executive session per RCW 42.30.110 to discuss a personnel matter.

SECRETARY'S REPORT

Secretary MacDonald offered an informal expression of gratitude from the Department to Commissioner Aubrey Davis for his twelve years of service to the Commission and WSDOT.

Secretary MacDonald expressed enthusiasm for the direction of the Commission with its current new members and the arrival of the newest member of the Commission Dick Ford. He also reminded Commissioners and the public that Commission meeting schedules will be held on Tuesdays and Wednesdays starting November 2004, to accommodate Commissioners schedules.

Secretary MacDonald noted that Commissioner Dick Ford will provide a valuable resource to the Commission in regards to his work as Chair of the informal coalition for the Alaska Way Viaduct (AWV), bringing insight from the business community in Seattle, and the labor, civic and political influences working on the AWV project and how its future will be shaped. He noted that Mr. Steve Reinmuth, Legal Counsel, will be consulted regarding Commissioner Ford's continued presence with the informal coalition.

Secretary MacDonald discussed the importance of the significantly needed I-5 crossing project between Vancouver and Portland, OR. That area in Clark County is one of the fastest growing areas, now statistically a metropolitan area, with a critical transportation role to address the Columbia River that acts as a barrier to the growing region. The Commission of Oregon Transportation and WSDOT are combining efforts to work together on this critical transportation need. He noted that this area serves as an important piece to the economic equation of Washington, including ports and rail.

(Verbatim text begins)-----

Secretary MacDonald began discussing various efforts regarding transportation in the Puget Sound region. There has been a flowering of study groups and other concerned coalitions and gatherings, at last count we know of four new ones or four morphed ones and I am sure there will be more. Whether this is better for more or fewer it is a strategic issue. The more people talking about this the better. But there is a lot of profuse energy up there right now. The Discovery Institute is funded by a grant from the Gates Foundation, and the grant is supporting a certain number of consultants to work with the Discovery Institute. The first group of 40-50 people, many are people whom one has met before if you have been following the transportation issue over the last three or four years. In some respects it is a place where the Blue Ribbon Commission legacy seems to be particularly well grounded and two personifications of that are Doug Beighle, who is chairing at the moment and Doug Hurley, who has been doing some of the consulting work. The group asked Mr. Hurley to prepare a summary of where things stand today in contrast to where things were at the time the Blue Ribbon Commission filed its report and took its report to the Legislature in the Winter of 2000. Mr. Hurley pointed out that our understanding of the congestion issue has changed quite a lot in the last three years, partly as I will speak about in a minute, we have had to revise our notion of whether we get the bronze or silver medal for congestion in the USA or whether we are just another runner in the overall question of urban traffic congestion and what the implications of that are for how we think about the way we will solve the problem and what we think the problem is, that is an interesting point he made. He made a point about how much more prominent the preservation issues are today than they were in the thinking of the Blue Ribbon Commission. Not only has the viaduct issue come to be a

project of enormous significance that which was hardly on the scope of the Blue Ribbon Commission, but the overall questions about the pavement preservation on I-90 and I-5 are a more prominent issue and so are the conditions of the urban and city and county roads, and some of the urban arterials. There was a lot of discussion of the change in our understanding of the problem through the planning effort. The WSDOT planning efforts are an important part, you have seen a lot of that work. Its linkage to PSRC is an important part of that.

Commissioner Forner: How does this tie into our WTP, which is supposed to take all these local things and put them into the WTP, is this a separate plan from the WTP? Are they working with Charlie on it? I am lost in all this flailing around of all these committees, I thought we had determined that we were going to put a WTP together and it would be implemented in 2005 and all these things would be incorporated into it, is that not happening.

Doug: Yes and no. There are planning processes in some points described in statutes in federal law and in state law about how planning will be done. They do not totally mesh. So even in the underlying laws there are planning activities that go on that are supposed to be brought together that don't always naturally fit, on both the federal and state level the work that is done at the RTPO, state chartered, largely overlapped with MPO's which are chartered by federal process, are supposed to provide a local foundation for the planning work, an assessment of local needs and conditions and desires. PSRC in the Puget Sound Region is the custodian of those responsibilities and those plans are supposed to be gathered up into the foundation for the WTP. Now there are a couple of little problems. Local plans have tended to be plans which in planner language are unconstrained, that is to say, if the project is a good project and people would like to see the project it tends to get on a list, getting from an unconstrained list of things that people could use and want to a constrained list of things people will pay for and could construct drives the notion of the projects from a funnel with a very large mouth to a funnel with a very narrow end of the funnel. In that process you can see a fair amount of confusion, or distress in trying to get an action plan out of a vision plan. If you are talking about real plans as apposed to paper plans you are talking about plans that will go through another screen that is underneath that funnel which is how the Legislature is prepared to work with it and put it into a political consensus. All of those things are going on and are very confusing and since people try to influence all of this by trying to get their own idea of the composition of the plan through that funnel, you can look around and see a fair amount of confusion. I think what you will also see is productive activity right now, because the work is going on.

Commissioner O'Neal: This is a subject you could talk about all day. Mr. Hurley's presentation had a lot of great features to it. One of them was that he confirmed a quote from Charles Darwin's comment that "ignorance begets more confidence, than does knowledge" and that when you look at all the things that have to be done it is an amazing list. He also said that to his surprise a lot has been done. Meeting with Cascadia, a lot of discussion about the Governance issue, I think Elmira's question goes to that – it is part of the reason there is all this discussion about Governance, there is confusion about how these things ever get done. The PSRC, the cities, the transportation department, entities that play a role in this decision making process in how to go forward, there is a strong feeling among some that the problem is

Governance, but when you look at ... Doug has described the theoretical list and the action list of projects, when you look at the list of projects that everybody agrees need to be done in Puget Sound, it is about 9 or 10, I don't think anyone disagrees on what needs to be done, I don't (Aubrey: regional plan, state plan) the are all in there... viaduct plan is moving. I remember this principle, "money drives policy", when it comes right down to it, if you changed the Governance somehow with a new structure to make a decision, the list is the same, and the question is still where is the money to do these projects. That is where this is going and I hope we don't spend a whole lot of time trying to figure out who is going to make the final decisions, we know it eventually is made by Legislature and the people are the ultimate deciders. If the people don't realize they have a lot of projects that need to be done and somebody has to pay for them. If they are not willing to pay for them, they don't get done. A matter of getting the message out to the voters, they don't agree, then stuff doesn't get done.

Chair Stedman: The issue of the Blue Ribbon Commission's recommendations as it affects the WTP is a very simple one. The recognition of the WTP was clear, the Blue Ribbon Commission understood the WTP is a plan, it didn't say an action plan, just a plan, and the very quick recognition was within the territorial area of Central Puget Sound, in order to move forward, you could not just have this plan you had to have a process by which these big projects could be found and funded. Thus resulted in RTID. RTID is struggling, as we recognize, but I don't find the fact that they have all these other little group discussions are bad. The WTP is moving forward in the appropriate direction and these groups I think are pulling these major issues into focus to the point that they can find a way to pay for them. I looked at this list and all of these numbers were on the Blue Ribbon Commission list – from 1998. 6 years later we are still discussing and dealing with those issues and will be for a period of time. I think we should move ahead don't you?

Commissioner Barnes: Mr. Chairman can I say something? You can have all the Blue Ribbon plans, you can have the Puget Sound plans, you can have the Clark County plan, the Spokane plan, but unless you have the key people that live in those areas whether it be city, or county, legislators that are not scared to stand up and speak on behalf of what is necessary to build a transportation system in this state, nothing is going to happen. Right now what you have, people that are scared to open their mouth because they think that somebody is going to retaliate against them or they are not going to get money pushed this way or that way, I see it all the time, I hear it all the time in my area, so I think what has to happen if you are going to put a plan together like this WTP, Puget Sound Plan, you have to convince all these people that are listening here that they are going to have to be vocal people that are going to get up and speak on behalf of this thing and support it.

Commissioner Fisher: Support those who vote for the money, that is the most important thing. That is the disconnect that we don't really do.

Commissioner Davis: Let me add one element to this, because I think there is one missing element, it is not organization, not planning decisions, it is the fact that our tax structure is inadequate, all we have is the gas tax essentially, we have tried to use the sales tax which was

given to the transit folks some time ago and they have won a lot of elections using the sales tax, but there is real doubt that people in Central Puget Sound are going to use the sales tax to build roads, polling shows they won't. that is a fatal flaw of RTID which Ruth has been saying. Yet where else can they go, what else is there? Most states use a substantial part of their funding for highways and transportation out of an income tax which we don't have. We had the MVET which was sort of our rough alternative for it and that got taken away. So now we are suffering with a lack of resources and it is not just guts that required here, there isn't potential tax base in our community with what we have to deal with these things. We can get more out of the gas tax, we ought to try to. Fundamentally we are going to run up against the wall that between taxes of the gas tax and tolls we can not build these projects, there is not enough money in those sources to do those things, until we face that somehow, no matter how many groups we have trying to make decisions, that is a fundamental flaw in our basic assumptions which no one really wants to face.

Commissioner Fisher: Let me say this a different way, it doesn't matter, we can be the most efficient group in the world, but if we don't have any money to be efficient with it is all out the window. We have to look at new ways and there are new ways, technology for charging people on the miles they drive. We are afraid to do that, aren't we Aubrey? We are afraid to do that and afraid to suggest it.

Commissioner Davis: Oregon is studying it so it may not be long before we have something to work with.

Commissioner Fisher: You ought to have legislators study it.

Chair Stedman: this election in November will be interesting, this is the first time in 13 years we have had an opportunity to find out if voting for a gas tax hurts you at the ballot box. Last time was 1991.

(Verbatim text ends)-----

Secretary MacDonald briefed the Commission on the congestion report from the Texas Transportation Institute (TTI). He noted that this subject and report will be covered in the next Gray Notebook briefing. Secretary MacDonald pointed out that this report is not a measure but merely a model of what congestion reports look like from the number of cars reported for highway statistics sent to FHWA. In regards to travel time he explained where the TTI ranked Seattle, Tacoma and Spokane from 1992 to 2002. Seattle showed improvement, most likely due to TTI's changed methodology taking into account tools like ramp metering, incident response, and transit that have had a positive contribution to congestion problems. Commissioner O'Neal pointed out that the recent grouping of the City of Tacoma in with Seattle's ranking has also contributed to a better ranking on the TTI report. Secretary MacDonald noted the report on incident response suggests that Seattle, along with a few other large cities have received the best benefit from the use of incident response. He pointed out that it is nice to see national recognition for the benefits of these tools, they are only tools used to contribute to efficiency. He also noted that the USDOT

recommends using these and other efficiency tools with today's modern freeway management. Secretary MacDonald commented that WSDOT is working on an independent study for congestion in the Puget Sound and the Commission will be briefed on this topic with a fuller picture of congestion in Washington State.

Randy Hain, Regional Administrator, Olympic Region, briefed the Commission on the status of the Hood Canal Bridge cable repair. The contract was awarded to Manson Construction, with construction set to begin on September 20. Commissioner Davis asked if the other cable yokes on the bridge are being inspected, Mr. Hain reported that he does not have that information, but will look into it.

Mr. Hain also reported the status of the Hood Canal Bridge Project, which includes two elements, the bridge site itself and the graving dock site. The bridge site itself is progressing according to plans with each of the three elements involved. He noted that the west half widening efforts will be shut down in October due to storm conditions and the east tend trestles construction will be shut down on January 15 due to fish windows at the site. The graving dock site is slowly progressing with continued obstacles as the removal of tribal remains continues. Currently the tribe is requesting an additional 3 _ to 4 feet of excavation under the floor of the site to recover any potential remains that may be on the site. The Department is working in a combined effort with the State Historical Preservation Office, the Corps of Engineers on a Federal level, and FHWA on a federal level attempting to reach a balanced compromise, meeting both the needs of the Tribe and the Department's need to continue construction on this project. Discussion was generated by Commissioners regarding financial aspects of this project. Secretary MacDonald reported that there are too many variables unknown, therefore it is too difficult to report on the financial situation of the project. He assured Commissioners that the cost of the removal is significantly less than the loss of construction time with contractors. The Department is concerned about losing another construction season to this project.

Secretary MacDonald quickly reviewed recent conferences attended by himself and other WSDOT staff. He also mentioned a few visitors WSDOT recently hosted. The first visitors he mentioned were representatives from the Japanese Ministry of Transportation who looked at our performance measures for congestion. Secretary MacDonald noted another visitor, John Gaffney of Vic Roads in Australia, who shared interesting things from his 38 day tour around the world looking at operations management and performance measures. He mentioned WSDOT learned interesting things from Mr. Gaffney, some of which will appear in the WTP.

Chris Christopher, State Maintenance Engineer, and Brian Walsh, Technical Services Manager presented Crystal Mouse Awards to three WSDOT Maintenance crews. Crystal Mouse awards are presented to public agency transportation staff for development of tools, equipment modifications and processes that increase safety, reduce cost, improve efficiency, improve the quality of transportation and have universal application. The Pacific Northwest Transportation Technology Expo and Washington State Technology Transfer Center Advisory Committee selected the Crystal Mouse Award winners. The Best

Equipment/Modification Award was presented to Eastern Region, Colfax Maintenance Shop staff; Bob Taylor, Tony Roberts, Jeff Vitamanti, inventors and fabricators of the “Guidepost Hole Puncher” and Maintenance Supervisor, Larry Batterton and Maintenance Superintendent, Jay Miller. The Guidepost Hole Puncher increased installation numbers from 10-20 guideposts a day to 100 a day and reduced effects on physical labor on workers. The Best Tool Award was presented to South Central Region, Walla Walla Maintenance Shopstaff; Jeff Brodhead, inventor and fabricator of the “Guardrail Sign Mount” and Maintenance Supervisor, Don Shute and Maintenance Superintendent, Bob Martin. The Guardrail Sign Mount reduced cost involved in mounting temporary guardrail signs and created a more efficient installation and use of these signs as well as increased safety. The Best Mousetrap Award was presented to Olympic Region, Shelton Maintenance facility staff Tim Van Berkomp, Aaron Corliss and Eric Hembury, inventor and fabricators of the Asphalt Patching “two boot” Grader Attachment and Maintenance Supervisor, Larry Deemer and Maintenance Superintendent, Don Clotfelter. This attachment is used to patch trenches, potholes and ruts. By using the attachment a \$1400 savings occurs daily by reducing man-hours, reducing back injuries, and creating a more efficient operation. After the awards were presented Mr. Christopher noted that from the ground up WSDOT workers are committed to figuring out how to do the best job with our resources providing safety improvements and more efficient operations.

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PUBLIC AND LEGISLATOR COMMENT PERIOD

Phil Nobel, Deputy Mayor, City of Bellevue, and Vice-Chair, Eastside Transportation Partnership, which is the consortium of East King County Cities and other jurisdictions which review, study and make recommendations regarding transportation matters. I am here to express the City of Bellevue’s strong support for the proposed Amendment to the I-90 1976 Memorandum of Agreement. I understand this is coming before you this afternoon for your consideration, we believe this is an important step forward and we ask you to support the amendment. The amendment has now passed all four of the central signatories, the three jurisdictions of Bellevue, Mercer Island and Seattle, as well as King County and Sound Transit. It achieves many important policy objectives. First it affirms the spirit of regional cooperation. It reaffirms the agreement to support High Capacity Transit (HCT) on I-90 as outlined in the original 1976 Agreement, it reaffirms and strengthens our Regions commitment to the State Growth Management Act and the critical role of Regional Mobility plays in supporting our urban centers, including connecting Seattle with the important economic and residential centers on the Eastside. It clearly articulates a need to advance and build Sound Transit’s selected preferred alternative of R8A, as you know that would provide significant transit at HOV mobility through the addition of additional HOV lanes on the outer edges of the bridge and to support protection of the shared use path. Because of the equal commute between the East and the West, there is no longer a disproportionate reverse commute that necessitates only HOV and transit enhancement going one way. Without enhancing the HOV and transit capability going both ways the congestion on the I-90 bridge will continue to

grow. R8A provides an alternative that needs to go forward and the proposed amendment to this agreement promotes that. This same project is a high priority for Sound Transits East sub-area and Eastside Transportation Partnership, which has repeatedly expressed its support for R8A. This project is also a key component for providing adequate cross-lake mobility when construction actually occurs on the 520 bridge. Finally the Memorandum of Agreement calls for the advancement and completion of HCT in I-90's center lanes. This is a particularly timely component to be considering since Sound Transit is now reconsidering an update of its long term plan and phase II planning. They are intending to select key HCT corridors for consideration in phase II to go to the voters and we believe this amendment helps advance the timing and promotion of expansion on I-90 for HCT. HCT on I-90 has long been supported by the City of Bellevue, and every Eastside community as well as Eastside Transportation Partnership and has been supported by the studies of the 520 Trans-lake study and the recent Puget Sound Regional council's evaluation of High Performance HCT corridors. You will be receiving if you have not received already letters of support from the City of Bellevue, City of Issaquah, the City of Kirkland to support the adoption of the amendment. Again this is an important step forward from the City of Bellevue's perspective and we urge your support in the adoption of that Amendment.

Chair Stedman: Mr. Nobel can you give us a brief understanding of the Eastside Partnership and how big of a region does the partnership involve?

Mr. Nobel: It covers all of the Eastside communities from the Snohomish county border down through Renton. It includes the major cities of Issaquah, Kirkland, Redmond, City of Bellevue, Duval, New Castle, Bothell as well as State Transportation Department and King County, Sound Transit, Mercer Island. It includes virtually every jurisdiction on the Eastside. We have considered and supported repeatedly both HCT on I-90 as well as the R8A proposal and we believe this Amendment to the 1976 MOA enhances the possibility of those taking place.

Chair Stedman: Before you leave I want you to know that we have extended a courtesy to Senator Jim Horn who could not be here for this period for an opportunity to speak this afternoon which will precede any voting we do as a Commission.

So he will be here 1:00 –1:30 pm, if any of you would like to remain be here at that time, I wanted to let you know that he will be here at that time to speak his peace on this thing shortly after lunch.

Commissioner O'Neal: We have a letter here from Rob McKenna, I assume it is the same Rob McKenna who is running for Attorney General, asking that the Commission defer a vote on this so that the Mercer Island residents can express their view on this proposal. How do you answer that question? Do you think deferral makes sense in this case?

Mr. Nobel: From our perspective no. First of all we think that Mercer Island residents have already expressed their view. They had an opportunity to vent not once but twice if not more, whatever views they had with respect to this issue before the Mercer Island City

Council deferred action on this so they could consider it even further, so more input was provided by the citizens, and Mercer Island City Council speaking on behalf of Mercer Island has adopted these proposals. So there has already been input, secondly we know that there is an initiative afloat. I think there is serious question as to the ethic of that initiative even if it passed, I think its legality would be seriously questioned. We think that the adoption of this Amendment has already passed all of the major hoops by the signatories to the agreement and we think it needs to go forward. You can not have continual retroactive reconsideration of things, it is time to move forward in our view, from the City of Bellevue's perspective. We think that this Commission should approve the Amendment, if and when something changes later on, I suppose every jurisdiction has the capability of reconsidering, but we don't think that that should hold up progress, we think it should go forward at this time.

Commissioner O'Neal: Are you saying that timing is critical on this vote? Or can it be deferred? What is your thought on that?

Mr. Nobel: Our perspective is that every move forward is critical, you can always defer everything, there is no reason to defer it. We think it has taken a lot of Regional Cooperation to get to this point. Getting the jurisdictions who did sign off on this Amendment, to do so unanimously took a lot of work, the hard part of heavy lifting as far as we are concerned has been done, it is a sign of good faith to move forward now and adopt it.

Chair Stedman: Thank you very much Mr. Nobel, you have done well.

Chair Stedman: Next name on our list, David Hopkins, King County.

David Hopkins: Thank you Commissioners for hearing me today, I am David Hopkins, the Regional Transportation Manager in the King County Executives Office, I am here today representing King County and Executive Ron Simms. I am here to urge your support of the Amendment to the 1976 MOA that is before you today. I am sure you are somewhat familiar with the process that led to this agreement. For several years a steering committee labored to come up with an acceptable plan to ensure reliable two way transit access across I-90. King County Metro was particularly interested in finding a solution, because as traffic was increasing on the bridge, our buses and the buses we operate on behalf of Sound Transit were getting delayed, our service was becoming unreliable, for buses headed to East King County in the morning and buses headed to Seattle in the afternoon. Carpools and vanpools are also being delayed because they lack a dedicated HOV lane in that opposite direction. Our customers are getting frustrated and our ability to increase market share in that corridor is hampered because of the service unreliability we find on I-90. The steering committee labored to come up with a good alternative, and every one that was developed seemed to have some fatal flaw, but finally with the development of alternative R8A as it is known, the planning process moved off of the gridlock. This alternative includes a dedicated HOV lane for buses traveling in the off peak direction and also preserves access to the center roadway for current users. By creating new HOV capacity on the outer roadway, it paves the way for eventual conversion of the center roadway to HCT. I think it is important for you to know

that HCT on I-90 is part of the Regions Metropolitan Transportation Plan and the Sound Transit long-range vision and it was envisioned in the original 1976 MOA. Steering Committee members recognize that this Amendment could memorialize both the commitment to improving the functioning of I-90 and the commitment to developing HCT on the roadway. The negotiations were at times difficult, but finally elected officials from all signatory jurisdictions have come together to develop and support the Amendment, and that agreement represents true Regional leadership at work. When executive Simms sent the agreement to the King County Council for review and approval he had this to say, “ the agreement before you was forged in the spirit of compromise and cooperation that I rarely see in the Region regarding transportation issues. All parties have agreed to this Amendment, all parties have recognized that reliable two way transit access is needed on I-90, all parties have agreed to an ultimate configuration that includes HCT in the center roadway, and all parties have recognized the importance of maintaining bicycle and pedestrian access in the corridor.” Just for your information the King County Council approved the agreement on July 6, and on September 7 the Council again approved the agreement with the revision that were made by the Mercer Island City Council, now that all the local jurisdictions have acted, Executive Simms would ask for your approval as well. With this agreement in place we will have set the stage for the continued development and efficient use of I-90 just as the original 1976 Amendment set the stage for its construction. Thank you again for your time, I would be glad to answer any questions you may have.

Commissioner Forner: We talk about the urgency of this, this last MOA was passed in 1976, that is a long, long time ago and we feel very urgent to pass this one, but nothing is going to happen, is there any funding, or any proposal to widen the bridge, or replace the bridge to accommodate the rail, is there anything in the funding package that says this is really urgent that we will lose some funding if this doesn't happen?

Mr. Hopkins: There has been some funding committed to the project and the Sound Transit representative can probably talk in more detail, but there is a commitment from Sound Transit for I believe \$15 or \$18 million, there has also been a commitment from the Federal Government earmarked to this project. The full funding compliment is not there, but I think the critical thing in terms of timing, the project was on the Sound Move plan that the voters approved in 1996, so we have been 8 years in developing an alternative that meets the intent of the project - (tape turn missed some comments?) and until and unless this agreement is approved by the Commission, Sound Transit can not enter final design on the project. And so the Federal Government is not going to give authority to move the project ahead until this agreement is in place and all the parties have come together to agree to it. To me that is the key issue now, is that we are ready to move ahead and this is the next step to take that.

Commissioner Forner: So what I heard you say is ‘Sound Transit is going to design the rail on the state interstate highway’

Mr. Hopkins: It is a Sound Transit Project, but actually WSDOT would be the agency in charge of the design.

Secretary MacDonald: I hope I get this right. The Project that we are talking about right now, is the R8A project to make the alterations to allow for the two-way HOV lanes on the outer roadway. And that is a WSDOT project. That is a project, which the funding so far has been discussed mostly in the context of the RTID, not wholly, and the EIS for that project has been completed by Sound Transit with other partners as other people have described. The question about HCT in the center roadway is one of the issues that is in the phase II planning program going on at Sound Transit now, no where close to design or construction, but the project of what will happen in the center roadway for HCT is down the line, the linkage is that in order for the current project for the HOV lanes to go ahead people are involved in the larger picture are very clear that they want progress to continue towards the eventual use of the center roadway for HCT. So in order to unlock progress on the HOV project that lies right ahead, if we can do the funding, the agreement is necessary so that everybody is working together towards the longer term goal.

Mr. Hopkins: If I could add, I think that the beauty of alternative R8A before us and the project that we are talking about funding is that it does create the capacity that you need on the roadway to eventually move toward the conversion of the center roadway to HCT in a phase II Sound Transit vote.

Commissioner Barnes: According to one of the documents we have here, the Amendment of 1976 MOA was redone on August 4, is that correct and signed by King County, Mercer Island, Seattle, Bellevue and Sound Transit?

Mr. Hopkins: Yes all the jurisdictions adopted it in that general time frame. I think the final jurisdiction, Seattle, took action a couple weeks ago.

Commissioner Barnes: Dan brought up the fact that we had a letter from Rob McKenna asking that we postpone any action until after the November election. Regardless of how the election turns out, one way or the other the project is still going to go?

Mr. Hopkins: I think the question before you with respect to the Mercer Island action is, I don't want to speak on behalf of Mercer Island, but does the Memorandum Amendment change significantly any of the commitments that were made in the original 1976 agreement. The 1976 agreement called for the operation of the roadway in a certain manner, called for the eventual development of HCT on the roadway, there is nothing inconsistent in the Amendment agreement before you with that original agreement.

Commissioner Barnes: From 1976 to the current date.

Commissioner Davis: Let me point out the I-90 was built on the basis of that agreement.

Chair Stedman: Just a moment. Ed you are asking a legal question, whether or not there is legal ramification to this. Steve, do you want to respond to that.

Steve Reinmuth, AAG, Office of the Attorney General: Ed, let me make sure I understand your question, that is whether any thing that is currently in the proposed Amendment that you are voting on today, is inconsistent with the underlying MOA signed in 1976.

Commissioner Barnes: Looking at the document, that is what I am asking.

Mr. Reinmuth: The answer to that is no. There is nothing inconsistent with the original MOA.

Commissioner O'Neal: We understand that there is a referendum and will be a vote, confined to the residents of Mercer Island as I understand it. Lets suppose that the residents of Mercer Island approve the referendum, which I guess would mean they would withdraw from this Agreement. From a policy stand point and maybe a legal stand point, what are the implications of that? If the citizens of Mercer Island, the majority, say they are opposed to this MOA Agreement, where does that put King County, Sound Transit, what do we do about it, what does it mean legally?

Mr. Hopkins: Again I am not sure I can deal with the legal issues, but I think I would echo Council Member Nobel's comments that this is an example of a regional project on a very critical regional arterial that needs move forward to achieve the regional vision that was laid out and the Puget Sound Regional Council's Metropolitan Transportation Plan, that is that this corridor needs to operate and provide capacity for both general purpose traffic including Mercer Island residents and HCT at a future date. The alternative R8A creates that additional capacity Mercer Island residents will need in the event that the center lanes are converted eventually to HCT. The original MOA of 1976 lays out a process by which space in the center roadway is allocated, and that process acknowledges that Mercer Island traffic has access to that center roadway, but their access is at the bottom of the list in terms of transit, carpools and Mercer Island traffic. Again, I don't think there is anything inconsistent with the original agreement in terms of adopting this Agreement and moving forward. Like I say I don't want to deal with the legal issues.

Chair Stedman: Mr. Reinmuth again, why don't you share that view. You have had time to look at this, why don't you share that view.

Mr. Reinmuth: Two things. First, as a reminder the Commission has the statutory responsibility and authority to manage all transportation facilities in Washington State. As a technical matter the Commission can do whatever it wants to do. I have made that clear many times. The Past Commission in 1976 signed a Memorandum of Agreement, that said, even though we have that authority we are going to work regionally with the people that are affected by this project. And that is the point that Aubrey has made. The MOA has in it a provision, that says, to the greatest extend possible under law, we will work together if we have to change this agreement, we will consult, we will get concurrence as much as we can.

So that is an important phrase in the agreement. In the statute Dan, as you assess, if one of the parties is unable to come to agreement, whether you can move forward. The answer to that question is yes.

Whether you want to is another question. Secondly, I have advised the Commission, I think the City of Mercer Island received similar advise, that under state law, a resolution passed by the City of Mercer Island is not subject to the referendum provisions. That is a matter, I understand, taken up in front of a King County Superior Court later this month. A hearing is scheduled for September 24th, based on a lawsuit that has been filed by the League of Women Voters and some citizens in Mercer Island. I have confirmed my opinion with the City of Mercer Island's City Attorney, and it is my opinion that if in fact the referendum were to pass it would have no legal affect. Now, practically, whether the City Council would pull back and say well based on the fact that our voters have spoken, we are as a practical matter going to revisit our approval. That is something for the Commission to consider. I want to footnote my comments and say that it is interesting, I understand that the City of Mercer Island, while they voted to place the referendum on the ballot as required by King County, once the signatures were gathered, they also took a motion or defeated a motion that would have pulled back on their approval of the Amendment. That is an interesting statement by the City Council to say, while we have this referendum when we would normally put things on hold, we have voted to proceed with our resolution. As a legal and practical matter, you have a statement from the jurisdiction and the elected officials there, saying we are going forward.

Chair Stedman: That vote was 5 to 2 two different times. We have two other speakers are going to speak to the same issue, so don't go away Mr. Hopkins, we may have another question for you. Thank you very much. He introduced Agnes Govern, Sound Transit.

Chair Stedman: Before you start, Agnes, have you been here before, before this Commission?

Ms. Govern: Yes.

Secretary MacDonald: I just want to take a moment to say that we at WSDOT are in front of the Sound Transit Board all the time, partly because I am a member of the Board, but more importantly because we are always having WSDOT staff come and testify to various things that we are doing together with Sound Transit. One of which I mentioned earlier, this goes for Bellevue and the county too.

Chair Stedman: Could you share your capacity with Sound Transit.

Ms. Govern: Yes I would be happy to. I am the Director of the Regional Express Bus and Commuter Rail Capital Projects Department at Sound Transit. Thank you for the opportunity today to talk with you regarding this very important Regional Agreement. The action before you today marks an important step to implement the vision approved by voters in the Central Puget Sound Region in 1996, when they approved Sound Move. That plan included a project called I-90 Two-way Center Roadway Conversion. After voter

approval of Sound Move we immediately began work on the projects in the plan, today throughout Snohomish, Pierce and King Counties, there are new Transit Centers, Park and Ride lots, Train Stations for transit customers to use to access ST Express Bus, Sounder Commuter Rail, and Tacoma Link Light Rail. Every day over 35,000 people use Sound Transit Services, after five years of services to the region, Sound Transit is well on its way to fulfilling its mission of providing mobility options and connecting communities throughout the region.

Sound Transit's I-90 project was unique among the 60 plus projects we are implementing, it was unique because of the 1976 I-90 MOA. As you know that Agreement had a requirement that the Commission would take no action which would result in a major change in either the operation or the capacity of the I-90 facility without prior consultation with an involvement of the parties, with the intent that concurrence of the parties be a prerequisite to Commission action to the greatest extent possible under law. With that requirement in place, Sound Transit began to implement this project 7 years ago by first calling together a Steering Committee with representatives from all of the jurisdictions who had signed the 1976 MOA. It included elected officials from Bellevue, Mercer Island and high-level officials representing elected officials from Seattle, King County and Sound Transit. In addition, Federal Highways, Federal Transit Administration and WSDOT also sat on the Steering Committee. As David Hopkins spoke, we worked long and hard at what would be an option that would in fact meet the intent of the project in Sound Move to provide two-way transit as well as meet all of the interests and needs of the various signatories. I am very pleased today to present to you for your consideration the Amendment to that 1976 MOA, with signatures from all the parties. This clearly fulfills the terms of the 1976 MOA. I want to speak to the regional importance of this agreement, as all of you know the signatories represent diverse interests and constituencies. We are certainly recognizing that as we hear from more of them. What is remarkable is that the leaders of these jurisdictions came together and agreed on a vision of the future as well as agreement on the first steps to be taken to achieve that vision. This Amendment is consistent with the 1976 MOA, it clearly calls out that the ultimate configuration of I-90 is HCT in the center roadway with HOV lanes constructed on the outer roadways as the first step. At the time of this agreement over a year ago, the media reported it as a breakthrough after years of impasse between the Eastside and Seattle. Your action today marks the final agreement needed to move forward. I want to speak a little bit to questions that were raised about deferral. I think that Deputy Major Nobel covered very well the policy aspects, let me speak to it from the project point of view. That is that we have completed a final EIS and Federal Highways is prepared to issue a Record of Decision upon the Commission's action. We can not begin final design on this project until Federal Highways issues that Record of Decision. As you know with any project and EIS is time dated in terms of if you let too much time go by you run the risk of having to refresh traffic data and other environmental data. In this case Federal Highways has indicated that they would like to see this project begin construction by the end of 2005. WSDOT has some money allocated through the Nickel package for construction on this project, in addition the PSRC has granted some money for early implementation for some work we need to do on the

shared use path. So deferral really puts at risk being able to move forward in a timely way in terms of finishing final design, beginning construction and getting the relief that we need in that area in terms of the two-way transit. I am happy to answer any questions you might have.

Chair Stedman: Any questions please for Ms. Govern.

Commissioner O'Neal: Let's suppose that the Commission were to go along with... say the referendum passed and the Commission said well we agree with Mercer Island they ought to maintain the access they have now, what would that do to Sound Transit Plans, would that have impact over time?

Ms. Govern: Let me first state that this Amendment doesn't do anything immediately to Mercer Island's access, in fact, this Amendment actually preserves Mercer Island access. What it talks about is.....

Commissioner O'Neal: It changes the access though

Ms. Govern: No. It talks about the ultimate configuration, which is HCT in the center roadway and so at some time in the future after a significant amount of public process and study that is true, but the most immediate project on the horizon is building outside HOV lanes. The Center roadway will continue to operate as it does today.

Commissioner Maher: So we could be looking at basically a 20 year out before we even get to discussing.

Ms. Govern: It is possible. It would depend on first Sound Transit completing its Long Range Plan in Phase II, which is on schedule to be completed next year. And then anything that happens in that center roadway is dependent on a vote of the people in the Central Puget Sound.

Commissioner O'Neal: So Mercer Island has lets say the citizens are opposed to this and they want to fight the program they can appeal or vote to the general population on this issue.

Ms. Govern: Absolutely.

Commissioner Davis: Let me add a point on that. The Mercer Island voters actually supported the Long Range Transit Plan, which said this and last year the same City Council unanimously approved this concept. The Fact that it changed from 5 to 2 meant one new councilman and change of position of another councilman. Which is legitimate but it can hurt a long, long history here, it has been complicated to get this agreement which has been underway.

Commissioner Forner: If you say it won't change the access, but will it increase the width of I-90 because you now have 2 HOV lanes on the outside plus a center lane. Does that increase the swath through Mercer Island.

Ms. Govern: No. Basically what we are doing is we have worked very closely with WSDOT in the design team and we are narrowing lanes, and narrowing shoulders at the same time being very careful to implement safety mitigation so we preserve the existing safety issues that are in place. So we are not actually increasing the swath across Mercer Island.

Chair Stedman: Any other questions of Ms. Govern, we have one other testifier. Thank you very much. Representative Jarret, who is of the District we are talking about, right? District 41.

Representative Jarret, District 41, as was mentioned I am representing the 41st District, that District does include Mercer Island, and I should point out that I represent the entire District not just Mercer Island, as I did when I was a Mercer Island City Council Member. Mercer Island constitutes about 20% of my District right now. I would like to make three points today. I will try to make them briefly and try not to repeat.

The first one of which is, I have brought with me a copy of the letter that was signed by all of the living Mayors of Mercer Island, save one, including two Mayors who served as Mercer Island's representatives in the negotiation for the 1976 MOA. In general I would characterize their letter as saying we have gone through a very long process here, it has been a difficult process, we have come to an end which preserves Mercer Island's interests in terms of access to the center roadway and we urge that the Council, the Citizens and the Commission by inference, support that agreement. In comment about the preservation of Mercer Island's interests, I would point out that one of those interests was the access to the center roadway because of the reduction of general-purpose capacity in 1976. There have been two votes since 1976 that would have immediately removed Mercer Island's access to that. In both cases the citizens of Mercer Island voted yes. The latest one of those was the 1996 Sound Move vote, as I remember Mercer Island voted around 60% yes on that vote. Concluding that point I want to make one other observation, if you look at the referendum that is being proposed, it has the character that a lot of votes we ask the public to take these days have, they are given one relatively attractive choice and no responsibility for any of the negative choices. In this case, do you want to maintain your center roadway access and the answer is yes, but there is no consequence to that. I think for those of us who are elected officials, we need to look at those consequences both in terms of my entire district for example, but in your case for the entire state. The second point I wanted to make, was to encourage you to support and include Commissioner Davis' mitigation Amendment. I particularly like that because I thought one of the weaker parts of the Amendment that is before you was how Mercer Island would be compensated if it did lose its SOV, I would point out that in 1996 there was not mitigation, and one of the reasons the Council involved itself in what essentially has been a 8-9 year process of coming to this agreement was to find a way to both implement what the public wanted with Sound Move, but at the same time without losing

some of the access and mobility that Mercer Island has. I am sure that you have all heard that Mercer Island is unique in the sense that it only has one way on and one way off and that is I-90. The Mitigation Amendment that Aubrey has proposed, I think provides a little bit more protection for the Island in terms of what the options might be. Specifically what the options that we can not conceive of today, may turn out to be technology that would permit Mercer Island to have access to the un-separated HOV lanes. Finally I want to speak just briefly about timing, I think the importance of timing has been pointed out in that it is to get a record of decision, that that does not guarantee that progress will be made on any of these issues, but it does permit, I would point out that my Senator for example is often in the place of pointing out the need to have project work scope defined before you can proceed with decisions like funding. Under that point I want to make it very clear that the Amendment as I read it and I think as most others read it, does not speak to rail. Let me repeat that, it does not speak to rail. It speaks to HCT, as one who was involved in the decision to move into the Sound Transit Plan using rail, I can speak that there are a number of changes that have occurred in technology that make other alternatives feasible and perhaps advantageous to the region. For example, in 1990, when we were looking at rail verses bus options, under the Joint Regional Planning Committee, the predecessor to Sound Transit, what we learned was that buses were really infeasible because of the speed limitation associated with electronic propulsions of buses under ground. Underground has been proven three times now, in three separate studies, is necessary to make any kind of a high capacity system work linking the University and the downtown markets of Seattle.

That is no longer true, with hybrid-buses, with electronic fixed guide way, with some of the other active technologies to manage vehicles, that is a part of the Phase II study by Sound Transit, there is no decision, formal or informal as I understand among the Board or the staff of Sound Transit on what the technology is. That is an open question that is currently being studied, it will probably be decided next year. As a final sub-point I want to make, is that that is the place where a lot of the discussion around the question of this Amendment should be. We should engage in that discussion of what the appropriate technology is and what the best way for this region to move forward is in that planning process. Thank you very much and I stand ready to answer any questions should you have any.

Chair Stedman: Questions for Representative Jarret. Before you came in Representative Jarret, I made the announcement that the rest of the speakers heard, that Senator Horn asked for the privilege of coming this afternoon, before we act on this particular issue and we have given him that privilege after lunch at 1:00 – 1:30. Just wanted to let you know that and if any of you wants to return and counter any kind of a comment that you might think was wrongly stated you are welcome to do that.

Representative Jarret: I will let my testimony here stand on its own.

Chair Stedman: Very good. Any questions?

Commissioner Forner: Fred, you have been with Transportation for a long time and I am trying to sort out the real issue here. Is it identifying the center lane as the Multi-modal

transportation lanes that is the issue? Because it has two HOV lanes on the outside, we are not increasing capacity, we are squeezing the single occupancy car smaller, so we are making an additional multi-modal transportation lane in addition to two HOV. That is the issue is it? And that was not in the original MOA. The said there could be rail but didn't identify where.

Representative Jarret: I think there are three underlying issues that are causing the difficulties around this issue. One of them is the reluctance of Seattle to add additional capacity on the I-90 to allow more vehicles to come into Seattle. What they were willing to do in the end was to say if we renew our commitment, that we all believe is there and we make it more explicit, that we are moving to HCT and we are willing to give in the same way that we gave in 1976, additional capacity SOV capacity to Seattle in turn for limiting the general purpose capacity to entering Seattle. The second issue is that Mercer Islanders are rightly enjoy the privilege that was granted to them as a part of the 1976 Agreement as long as the system performs at speeds in excess of 45 mph. That as long as exceeds 45mph part is seldom mentioned in any of the public discussions, nonetheless people like that opportunity. They are being told that they are going to loose that opportunity as a consequence of this, and they are being told that there is inadequate mitigation for that and that they will be dumped into the three general purpose lanes that are already congested in peak times, and they are naturally reacting negatively toward that. The third issue is the issue of Sound Transit and the fact that the race to the vote between Transit and roadways is perceived on some roadway advocates part and they see this Amendment as being a way to allow the vote on Sound Transit to occur before a roadway vote occurs and the fear that given the votes in the past that the Sound Transit vote will pass and there will be no opportunity to improve general purpose capacity. I personally don't believe that is true, I think that the likelihood from all of the polling that we have done, in fact the reason I was late was I was meeting with some business groups on the question of where do we go with the RTID and what do we do. It has been my opinion that you need a balanced solution that unless you have a balanced solution you aren't going to be able to get the necessary votes from the public to be able to pass the tax package. So I think the real question is, again I go back to what Sound Transit is doing on phase II and what the RTID is doing in project selection is how do you take advantage of the ability to link those two? Or some mix of those two together in a transportation strategy that is credible with the public, and I don't think without this agreement that can be done.

Commissioner Forner: That makes more sense than anything I have heard or read so far, so thank you very much.

Chair Stedman: Other questions? Representative Jarret you have done very well.

Commissioner Barnes: One question. There has been a reference to the Federal Highway Administration (FHA), in this letter that Representative Jarret handed out it has the FHA and some indication was that there was timelines that if not pursued would cause some financial or hardship or loss of money, we have a representative from FHA here I wonder if he would like to make any comments as to true/false or what the FHA participation in this project is.

Speaker from back of audience, possibly representative staff from FHA: I don't know in context to that but any document that we do if you don't move forward with project within three years you have to go in and re-evaluate it... of course with a project like this that involves capacity and congestion and stuff and the rate of growth the vehicles traffic in the Seattle area, maybe over a period of three, six, nine years the data we based our decision on would be out of date and you would have to go back in and update the data and/or re-evaluate the decision because it would no longer be good, maybe not adequate capacity, or whatever, I don't know what whatever is, traffic of buses, safety record would be different, any environmental? Document we approve, if you don't move ahead with the project it is always subject to be re-evaluated every three years. It is always subject to be changed based on the re-evaluation.

Chair Stedman: The Commission will recall that we have already delayed this action by one month, there was supposed to be done a month ago, because of circumstances up in Mercer Island. We are going to try very hard to act today, the idea of delay, delay, you can delay it forever if the opportunity presents itself and for those who would like delay they probably would like us to delay, I think we will try not to delay but we will certainly go through the process this afternoon. Thank you all that appeared and we will move on to the next item on the agenda.

Senator Horn thanked Chair Stedman, and ladies and gentleman of the Transportation Commission, I appreciate you allowing me the courtesy of addressing you this afternoon. I have brought with me today Lisa Belden, Mercer Island attorney who headed up the Referendum campaign and Ward Truess head of the Eastside Transportation Association that brings together a lot of the business interests and community on the Eastside Communities relative to their concerns on transportation. They have been a long time transportation organization that has been in affect over there. I would like to lead off with some general statements and then have Lisa tell you about the Referendum process and where it sits and its importance and Ward will tell you about the secondary concerns that business' and people have over on the Eastside Communities, which may be different from what you have heard from some of the elected officials not surprisingly.

First off, I think that and always have said that The Transportation Commission has the responsibility of the highways of statewide significance. They own, design, build, operate and maintain the highways of statewide significance for the State of Washington. I-90 is an important segment of that, certainly the most important segment within the State of Washington and maybe the most expensive segment in the USA that is out there. So it is small wonder that it deserves your attention and concern and has so much concern from the communities that live around it. As such in building it, we went through having a Memorandum of Agreement, it is in front of us and we must live with it, it is not something I recommend we go through on any other segment in the State of Washington, nevertheless it is there and it is something we are all trying to abide by. Out of that I feel you have two roles, you are one of the six people that have to make Agreement to that MOA, just like the City of Mercer Island, City of Bellevue, City of Seattle, County of King, Metro needed to do. You have a secondary role being in charge of the highways of statewide significance, that if you are

to change the operation of that area among these communities before making that change. So those two roles I think are very very important. As you know, I have been very strongly supportive of the Transportation Commission and building trust in the community. Not only with the transportation community, but Transportation Department itself. So that trust and feeling that you have gone through a very methodical role in making changes I think is important to the reflection of that trust. Along that line, we certainly have two questions, one is R8A. We have gone through an Environmental Impact Statement (EIS) on R8A. There is nobody as far as I know that has any concern about R8A proceeding, so any comments that we are making has to do with the modification of the MOA and not to the proceeding with R8A itself. It is unfortunate that some people have tried to connect these two actions when they are independent actions. As you know we are proceeding on the finalization of an EIS that has been complete and found the operation of that facility of which we have had a lot of information about is best served, best public use by R8A where the public gets more value out of it in that configuration, than anything else. So there is no question about proceeding with R8A. It is a modification of the MOA that is concern, and we have been able to make every other change that has happened in the configuration of I-90 within the MOA because it provides steps to go through for the change without its modification. Now what troubles me and other people about this thing, effective statements that are being made here is stating that High Capacity Transit operating in the center roadway is the ultimate preferred configuration for I-90. That is a statement that is being made that does not have a study behind it, that has no EIS, has no supporting documentation to be done. It seems to me like a Transportation Commission making a statement such as that, even though it is part of a document, you have the two roles to do, undermines the confidence of the people in the State of Washington relative to the Transportation Commission. Ultimate configuration without understanding the pro's and con's, the affect on Mercer Island, the affect on Eastside Communities, is it having more usefulness of a public facility than the R8A configuration. We know what R8A is, we have that study, we do not have the study on the ultimate configuration. To follow that with a statement that says, construction should occur as soon as possible, I am not clear about what that means either. People will misinterpret that and argue it after those statements are made. Finally, a statement that comes in there that adding Sound Transit as a new signature.

This document is exceedingly complicated as I say, I don't recommend it for any other piece of highway in the State of Washington, nevertheless we are where we are. Six signatures are there, adding a second one adds another Transit authority does not take Metro off of it and you are binding yourselves to a situation that every one needs to concur to any change that again makes place in the future. You are building a future that is exceedingly complicated when you add one additional signature as a part of that Agreement to the MOA down there. Those are the basic concerns that I have, plus the seemingly necessity to move forward today, when we have a Referendum that has court action pending on it, most times people feel that having filed a Referendum it hols the public process until the outplay of that Referendum is known one way or another. With that I would like to introduce Lisa Belden to tell you about the Referendum process, where it stands and the support it has on Mercer Island.

Lisa Belden, citizen, my address is 8453 South East 63rd Street on Mercer Island, I am an attorney, I am also a working mom, mother of two kids that have gone through the school system on Mercer Island, I have a senior and a freshman. I moved to the Island, my husband and I both working with young children, moved there from downtown Seattle for the reason of the easy commute. I think that is a very common theme for a lot of working families on Mercer Island. We are unique community we have a very high percentage of working professionals including doctors, lawyers, realtors, business owners, and we need our cars to work. It is the concern of losing that access and having to take the train to work, or combination of train and bus to get where we need to go and still need a car on the other side of the lake, that is a very serious concern to us. That is why I got active in this, I have never been active in a political group before or cause, this is my first entry. The focus of the Referendum petition is primarily, is not against R8A, we back R8A, there has never been an issue. The issue is connecting R8A to having this decision made to have High Capacity Transit in the two center lanes, the effect of that would be pushing all of Mercer Island traffic out into the already crowded outer roadways. I know you are well aware that that would be the affect. So the other focus of the Referendum petition group was, why are we being asked to make this type of decision and why is our City Council being pressured to make it when there has been no study determining the impacts on Mercer Island, on its surface streets, how long the queues would be. There are about 6500 cars every day that go to and from Mercer Island during the rush hour to get to work. Our wish and desire is that there be the proper sequence here, there be a study, there be the analysis of what the impacts will be so that we on Mercer Island will know that and then from there figure out how to fix it. There is no intent to be an obstruction at all on Mercer Island, we are very practical people, forward looking people. The people on Mercer Island were so upset about the Council's decision of August 2 to go ahead and sign this Amendment, despite overwhelming feedback to them in public hearings, that this would not be good for the Island, we don't want this, because of the reasons I have stated, and Senator Horn has stated. But, they proceeded anyway and it was a very controversial 5 to 2 vote. We started the Referendum petition on August 12 and within 20 days at a time when Mercer Island is typically gone on holiday, we collected 4,570 signatures. This is an extraordinary number that amounts to about 25% of the total number of registered voters on Mercer Island. It was collected in an extraordinary short period of time, by regular residents like me. There were no paid signature gatherers in this effort. In case you think this might just be the fringe of Mercer Island, it wasn't, we collected every surgeon that works at Swedish hospital that lives on Mercer Island. A lot of the attorneys, top realtors on Mercer Island, CEO's of big companies, even the attorney and his wife who is in a legal action to try to prevent our referendum from going to the ballot, signed the petition. This is the core of Mercer Island that is signing this petition. The status of the petition now is that we have collected more than requisite that is required under state law, the petition Referendum has been certified by the King County Records and Election, that was done on September 7th. It was certified as sufficient under state law. Also on the night of September 7th, the Mercer Island City Council responded to the Referendum Petition under advise of their Counsel that presented options to them, one is to repeal it, one is to send it to the ballot and one is to do nothing. They retreated into an Executive Session and came back and after more discussion voted unanimously 7 to 0 to put the Referendum Petition on the November ballot. And that is where we would be and will be, but for the lawsuit that was brought very

recently by four citizens on Mercer Island trying to stop it. The court status now is that there will be a preliminary injunction hearing this next Friday, September 24th and at that time the Superior Court Judge will make a decision. We believe he will make the decision which is consistent with a very recent Washington Court of Appeals decision, in fact our own Washington State Supreme Court yesterday went along with that saying that the priority here is to get the matter out to vote. Legal decisions are questioned as to the validity of the scope, can be decided later, the important thing is to get out the vote. I think that is what our Superior Court Judge will do. If not then if we have to go up, then we will go up. There is no harm in voting, it never hurt anybody, it is the American way, so if I could leave anything with you, it would be the affect of the Referendum Petition on the current status on Mercer Island's agreement or concurrence on the Amendment. What the understate law when a Referendum Petition is filed, at that time it suspends the effect of the Legislative Act. That Legislative Act being the authority given by the City Council for the Mayor to Sign the Amendment to the MOA. So at this point under Washington State Law, at least the way I look at it, is that that concurrence is no longer there. That consent is gone and it will not be reactivated under State Law until after the matter goes to the ballot and at that point depending on the vote, it will either come back into effect or not. On Mercer Island, we want to have an unbiased campaign and vote, this is a non-partisan effort and we are concerned that if this Commission takes action today, rather than allowing the Referendum process to proceed, it would potentially buy us that campaign and the vote. Typically what happens Referendums is that it stops the process, other public processes going forward, everyone waits and gives respect to that and you see what happens. That is what I would encourage this body to do today, we will have an answer either next Friday or on November 2nd and that is only six weeks to wait. We don't see that there is any emergency not to allow that to go forward and give the respect to the Mercer Islanders to have their voice in this, and that was contemplated under the original 1976 MOA, it seems to be required by the 1976 MOA paragraphs 14, that say the Commission will take no action which would result in a major change in either the operation or the capacity of I-90 without prior consultation involvement with and with the intent of the concurrence of the parties as a prerequisite to Commission action to the greatest extent under law. What we are asking you is to let the Referendum process move towards the ballot, you will have an answer by November 2nd, there is no reason to try to short change that by coming to a decision here but rather defer that until after that answer has been made. I-90 is working now, it is going to be a long time, there is no impediment to moving forward with R8A, the EIS supports it is the only alternative to reduce congestion, Mercer Island is behind it. We would encourage you to go forward with R8A but defer on the Amendment until Mercer Island gives its concurrence and this Referendum Petition is decided. If you have any questions, I could answer.

Chair Stedman: Why don't we wait to ask questions until all the presentations have been made.

Senator Horn: I would ask Ward Truess to tell the story from the ETA.

Mr. Truess: Good Afternoon, My name is Ward Truess and I am a small business man in Bellevue and I live in Redmond, at 8108 138th Avenue NE, and I am the President of the

Eastside Transportation Association, which has been an active Association on the Eastside of Lake Washington and we represent concerned citizens, business representatives and transportation professionals and we are dedicated to improving mobility on the Eastside, which we call central King County. Our beliefs are that we believe we must improve personal mobility and goods distribution in our area and we must address the major economic cost of congestion which communities pay and we must balance the transportation infrastructure by the peoples choice of modes. People decide what they want to do and it is our job to accommodate the peoples choices and that is how we built trust in the public, this is part of building trust in the public, and precious transportation dollars must be spent wisely where they will do the most good. Now we as business people on the Eastside, we see I-90 and 520 as a place to get our employees that live in Seattle to come to work for us, and we see also a place that we are getting our people after hours they want to go to games, baseball games and sports events, theatre and getting there in the evenings. So it is very important to get these, we only have two bridges in the Seattle area, so this is a very important thing, we don't have any data to support that making this decision will not impact the Eastside. I think we need to take a bit of time and do a little study and make sure that we have some kind of Environmental Impact Statement that tells us that we are doing the right thing by taking this action. The impact on Bellevue could be tremendous and Kirkland and Redmond, it will be a major effect in these areas, what you do in one area, has an effect that moves out from there. I think we should delay the approving of this Amendment until this Referendum gets settled and that we know exactly where we stand, what the views of the people here are and also it will give us an idea to do a little study to make sure we have got some good facts, that is the way Senator Horn has said we build trust with the people that we are acting responsibly. It is very important to show that to the public at this time. This is where our organization, our position, we want to make sure that all the people that moved into this area on the Eastside, that we are acting, that they have the proper infrastructure to get from place to place as easily as possible. And that we are using all our tax dollars wisely. That is my conclusion here.

Senator Horn: If I could just summarize three requests that we would make. One, is that Commission not take action until the Referendum process is played out and complete. Two, that you not declare the ultimate preferred configuration until a study has been done and you have supporting facts and detail on it. And Three, that you not add Sound Transit as a signature to the agreement, which seriously complicates whatever is done in the future, certainly not without removing Metro as one of the alternates that go in. Thank you.

Chair Stedman: Senator Horn, as a long time Legislative Chairman you are aware that sometimes Chairman acts as a devils advocate. I think I have seen you do that a few times, just to make sure that everything is clear. Earlier today, excuse me, another chair that lives under the same philosophy, over the period of the last couple of months that this issue has been on the table, we deferred a month ago because of another Amendment that was offered up by the City of Mercer Island, since that time every jurisdiction that was listed in the affidavit of the agreement has almost unanimously supported this action that we are being asked to make, with the exception of Mercer Island Council which was a 5 to 2 vote. All the others have come in at almost unanimous agreement that we should move forward. With that

background in mind, recognizing that those people who represent the Councils and various jurisdictions of the Agreement, why would we not believe as a Commission that their view expresses the majority view of the constituency in which they represent, remember why I started this Senator Horn, I am serving as the devil's advocate, I would **never** place myself in a difficult position with a Senator of Transportation Committee Chairman, could one of you give us some, why would we as a Commission who had been thrust into this, when everybody agrees, we are supposed to act, and everybody has agreed, why would we not act.

Senator Horn: I think that is a fair question, it's a good one, the Council on Mercer Island was divided and it was divided on a 4/3, except it went to a 5/2 because one member of the Committee changed his vote to get a modification of the thing that he would rather not have happen at all, but it was important to get something that was modified on it, that was a tactical change I think he would say in the vote, so that a more fair consideration is a 4/3 vote. I think because of that situation even more, that when you have a Referendum process where the citizens on almost a 90/10 basis is so in opposition to the position that their Electra took, that you wait until that action plays out before you take your action. And if the citizens on the Island do vote to support their Council, then it is clear that you are in a very clean position to go ahead. If they do not, then all the stuff would be undone anyhow. By taking your action today, verses waiting perhaps until a week from Friday, or November 2nd at the latest, makes you not have to make that decision, because you wait for it to play out. That is what the courts do most of the time, when things come from them, they don't go in and act on things that may be moved at a later time frame. As to the other thing, I think you have a responsibility, all of you, to the State of Washington about the operations of the highways of statewide significance, and to make a decision or statement that something is an ultimate preferred configuration without supporting data, I wouldn't care whether everybody felt that way or not, until I had the technical analysis to make it work, I think that is where The Transportation Commission needs to move instead of being a political body is be based on sound fact and data that you make your actions on. You have no study in front of you that would even support making that statement.

Chair Stedman: Another devil's advocate comment. The statement has been made, I don't remember that you said it or somebody else said it, that the Commission would lose public trust by not seeding in a slower manner and perhaps putting it into a delayed process, in this instance, I would suggest that just the opposite is true, the Commission would lose the trust of all these other organizations which have proceeded through a process to reach a decision, and then we sit here as a Commission waiting for that process to take place, it takes place and then we deferred or somebody else wants us to defer and another delay and we delay.... So I guess my reaction to that comment that we would lose trust, I don't believe that is the way it would work, I think we would lose trust within those structures that have already made their decisions and asked us to sign on as the final document signer. With that I am going to ask our other members.

Mr. Reinmuth: If I can make just a couple points to maybe preempt questions, first I would remind the Commission that it can always revisit any resolution that it passes, in this case if a court were to determine that somebody's concurrence is unlawful you could always revisit,

so I will make that point. Secondly, Lisa, just to supplement what Lisa said, first of all King County doesn't certify an election for anything other than numbers. They don't get in to look at the substance of legal questions, I have confirmed this with the King County Prosecutors office, they don't look at and they try to stay out of any kind of substantive decision on whether or not a ballot measure is "proper", they just do the ministerial act of counting. I wanted to make sure that the Commission understood Lisa's comments that King County reviewed it and asked that it be placed on a ballot, but that this lawsuit will determine ultimately whether or not it is substantively proper. Thirdly I want to remind the Commission that my prior advice has been and still is that a Referendum under State Law only applies to an ordinance. Not to a Resolution. And I understood Lisa to interpret that differently as a Legislative act and I suppose that is what the court will determine. My advice to you is that a Resolution is not subject under State Law to a Referendum, if that impacts your decision as you decide whether to proceed or not or whether you would need to revisit it or not, I wanted you to be reminded of that. The final point I wanted to add to what Lisa said is that typically it is the case, I think all the lawyers in the room would agree that a Referendum would create a standstill, however the City of Mercer Island in terms of its concurrence status voted specifically at the Council Meeting, and I may be incorrect, but I have checked with the City Attorney to confirm this, **not** to withdraw its Amendment Resolution in light of the pending Referendum. And that is I think, food for thought for the Commission to decide whether or not in light of Dale's point, the City of Mercer Island Elected Officials are wanting to stay back or wanting to move forward and whether the Referendum should have the impact that it claims. I wanted to make those points and remind you that you can always revisit whatever a Resolution is, depending on what a court might do or what facts might change. I am happy to answer any other questions.

Chair Stedman: Senator Horn, do you have a question of Steve or me?

Senator Horn: Well, I would like to make a point, first off you started with a question about acting quickly, First off let me tell you I have been very supportive of the Transportation Commission and building the public trust that is out there. I think highly of all of you that are there, and I know we are acting toward trying to build that, but in this particular case, perhaps we are looking at versus the trust of elected officials versus the trust of the citizen/population and the voter. Perhaps that trust is seen differently. One of the trusts I think we need to build is that of the citizen and the voter that is out there. As to your Attorney's area, the City of Mercer Island is an optional municipal code city, and they have a local ordinance, that is it gives them a right of Referendum. So that is perhaps different than a State ordinance, they have also modified that on previous occasions as what they have recognized and I think the fact that they took a 7 to nothing vote indicated their feeling that this did apply to the Resolution rather than just an ordinance. Otherwise they would have challenged it and not gone forward. So this is operating I think under a City Ordinance, which because they are an optional municipal code is different and it specifically states that a code city in a Referendum, that if you didn't meet everything precisely, you would not be thrown out of court.

Mr. Reinmuth: For the Commission's benefit, I am aware of Senator Horn's concern and so I called the City of Mercer Island Attorney, and she can not find that ordinance, so I am not saying it doesn't exist, it is just that.

Ms. Belden: I went to the same law school as the City Attorney from Mercer Island, there is an ordinance in establishing Mercer Island as a non-charter code city that provides that the City has the broadest powers provided up to, only limited by the State Constitution. State Constitution clearly gives Referendum powers to the people on Legislative acts. Additionally there are other provisions in Mercer Island City code as well as in State Law that provide that a non-charter optional code City's powers only limited if this expressly limited, all powers that are enumerated are an additional to. So this is a legal question which I don't think we need to debate here, but the court will be debating with proper briefing.

Mr. Reinmuth: This is the kind of question that will be addressed at the court, I will just simply jump in and say that Title 35A treats non-charter and charter the same, in fact the non-charter provisions on Referendum specifically incorporate by reference the charter Referendum powers and those are limited to ordinance. So my advise to you the court can do what it wants to do and I fully expect arguments to be made to the contrary, but after lots of thought and lots of research, my advice to you as the Commission is that a non-charter City is subject to the same kinds of charter City limitations when it comes to the power of Referendum and those Referendums are limited to ordinances and the legal effect of the Referendum is nothing. You can choose to proceed or you can choose not to, it is up to you, that is the legal advice to the Commission.

Chair Stedman: In fairness to the viewpoints of the earlier points of this morning and this afternoon. We will ask a couple more questions and then I think we should close this portion.

Commissioner Forner: I have a very different concern and I think this is my one concern, actually Jim when I met with you, and that is your statement that there has been no EIS done on the preferred alternative and that it is a political decision that this is going to be the resolve for Transit on I-90. We have been going through, as long as I have been on the Commission, alternatives for AWW, we have been going through Monorail alternatives, there has been study after study after study before we make a decision to even modify a road, how do we get to the point where we all of a sudden say, on I-90 there is going to be a rail down there and that is the preferred alternative. I don't know how we have come to that agreement.

Senator Horn: Well there is not an agreement that there would be a rail down the center, and that is what is trying to be done in this MOA rather than the process you should normally go through. When we built I-90 we made it so it could be converted to rail, but not that it was a preferred alternative. When you said it would be converted to rail, it meant that the grade off the water was limited to 4% and it had other implications to make that happen. But it was holding the option there and not a decision that that was the ultimate configuration. Now we have had EIS and studies on R8A and purely moving to R8A is a better use of that public

facility and helps everybody, now if you take those two center lanes that are multi-use that have the ability to carry transit, HOV and Mercer Island traffic and convert it to a single use thing and then take that additional traffic, particularly Mercer Island traffic out of the center roadway, and they generate about equivalent of one lane, and put it in the three general purpose lanes that then adds 33% additional capacity to those general purpose lanes that are almost already crowded, that will surely drive you below 45mph speed limit. When you drop below 45mph speed limited, then your capacity of that will be equivalent to 1 _ lanes not 3 lanes now. So you will have secondary impacts to all these side cities, all out in front of you. To say this an ultimate configuration without the analysis of those secondary impacts on it, as I think, is irresponsible.

Commissioner Forner: That really concerns me, because the Commission is supposed to base their decision on technical and engineering analysis and I would like staff to respond to that. Have we done something that says this is going to be the preferred alternative? If we can do that then why have we spent millions and millions of dollars on the AWW coming to a preferred alternative. Am I missing something here?

Chair Stedman: We are not going to have the staff answer that question during this discussion, we can ask that discussion be made. Can we ask any other questions of our visitors and friends here. Senator Horn, as always great to have you here, Ms. Belden, Mr. Truess, nice to have you. We will be addressing this later in the day, and Senator Horn you will be the first to know.

Senator Horn: Thank you very much for modifying your schedule to talk to us today.

CONSIDERATION OF THE I-90 TWO-WAY TRANSIT AND HOV PROJECT AND THE AMENDMENT TO THE 1976 I-90 MEMORANDUM OF AGREEMENT

Secretary MacDonald: I think I will serve this best if I say I can not imagine that you want to hear any more about this than you already have. I think the issue is the Commission's willingness to adopt the Amendment to the MOA, which has now been exhaustively discussed and presented. I don't think I need to say anymore except to say I am perfectly happy to answer any questions about it if anyone has any. I know that Agnus is here from Sound Transit and will also be very helpful if there are specific questions. So the MOA is before you.

Chair Stedman: Before we move on to each of your own comments whatever they may be, I would like to make sure you are aware that we have a number of documents that have been sent to us in letter form. I think most of them, if not all, came to you, a letter from the City of Issaquah, the Mayor Ava Frisinger and all of these letters express support for the proposed Amendment. As will be given to you... passed around new copies of the Resolution. I wanted to make sure that you are aware that the letters we have received speak to this Resolution and our willingness to support the proposal that has been on the docket now for a couple of months. We have a letter from the City of Kirkland, from the Mayor, Mary-Alyce Burleigh, we have a letter from Jessyn Schor, Transportation Advocate,

WashPIRG, Rob McKenna's letter is the one letter who asked that we delay, we have a letter from the City of Bellevue, Mayor Connie Marshall, we have a letter signed by the nine former Mayors except one, Ben Werner, State Representative Fred Jarret, Elliot Newman, State Representative Judy Clibborn and Gordy Edberg who were all Mayors of Mercer Island at one time and Jim Horn (Jim Horn – I as a former Mayor agree, but I did not think it was appropriate for me to sign that letter. Dale: I agree with you, I think that was a noble gesture not to do that.) So we have all of these documented support proposals, they are in hand, and you have before you the issue which is being recommended, staff recommends that The Commission approve the Resolution, approving the project and authorizing execution of the Amendment and you have before you the Resolution number 667. It is open now for comment, what might serve us best is to get it on the table as an action.

Commissioner O'Neal: You are looking for a motion?

Chair Stedman: I am looking for a motion to adopt Resolution 667 based on the testimony we have had and heard.

Commissioner Maher: ***Based on Testimony we have and heard, I move that we adopt Resolution 667.***

Commissioner O'Neal: ***I will second that.***

Chair Stedman: ***It has been moved and it has been seconded.***

Commissioner O'Neal: ***I think we ought to discuss it now.***

Chair Stedman: ***Open for discussion.***

Commissioner Maher: I have a statement. A lot of the concern we heard today said that there had been no studies to convert the center roadway to a two-way high capacity transit operation and in the Amendment that I have it says that commitment to the latest possible conversion of center roadway to two-way high capacity transit operation will be based on outcome of studies and funding approvals. So I think that that question has been addressed. I think that we are not leaping ahead of the public process, but we have said that those things will happen as we move forward.

Commissioner O'Neal: That was one of the questions I wanted to have resolved. Is there or will there be adequate study? And it is contemplated in this Resolution.

Secretary MacDonald: This was the subject to the side bar that Elmira and Agnus and I had discussed a few minutes ago, when Elmira asked when the Senator was still here and we passed on the answer at the time. What is the sequence in the relationship of the studies? What one has to do is go back to do a sort of chronology and Aubrey can certainly help me on dates, which I am not even sure I was born, it starts with the original Agreement to bring the New I-90 into Seattle from the Eastside and the understandings embodied at that time,

that what now is the center roadway would in due course be utilized as high capacity transit, and the evolution of that thinking, Agnus suggested she might want to check this, at one point the document or illustrations marked it as a future transit way. In any event, as part of the regionally IS that was done on Sound Move in 1993 that was studied, and it was voted included in the understandings about that package voted in 1996. So that if you asked the question has the use of the center roadway for high capacity transit been studied, it has been studied, it was a part of the political understandings on the basis the I-90 project came to Seattle and it has the imprimatur of voter action in 1996.

Commissioner Davis: It is also in the Regional Plan.

Secretary MacDonald: Now the second piece of the question is, when high capacity transit is seen on the center roadway, and that might be sometime from today, give the fact that it is still an unfunded project. What form will it take, will it be bus rapid transit, will it be light rail, conceivably be monorail or whatever. That question is the question presented in the Sound Transit phase II study which Sound Transit is now in the course of gearing up. Elmira asked the question, it is a side point, is that a WSDOT EIS or does it need to be, the critical point is that it will yield an FHWA record of decision, which is required in all of this and we will with many others participate in that EIS in the Sound Transit Phase II planning process. Lets set that aside for the moment. So the remaining decisions about the form that HCT will take in that center roadway will be subject to forthcoming studies. So some studies on some issues are past, some studies on open issues are in the future and by the time the decision of what kind of HCT – when that decision is made and implemented – it will have been subject to studies that are still forth coming in the Sound Transit Phase II. And by the way, another vote, because Sound Transit Phase II will itself have to have voter endorsement.

Commissioner Barnes: Mr. Chairman, before we go any further I would like to have Michele repeat what she said. I can understand just exactly what you said.

Commissioner Maher: The question was were there some studies or funding for the commitment to the conversion of the center roadway, the center lanes, to HCT operation, and in the Amendment that was in our book, number 4 says ‘commitment to the earliest possible conversion of center roadway to two-way high capacity transit operation, based on outcome of studies and funding approvals’, that is agree to the following principles regarding future development. So there will be outcome of studies and funding approvals before that happens.

Commissioner Davis: That is within the Amendment of which is sitting before us today.

Commissioner O’Neal: In the Resolution that we are, this is the Amendment to the 1976 MOA, it talks here about all parties having studied many alternatives as participants. Studies have happened here, it is not as if nothing has happened. There will be more studies, get it right I guess.

Chair Stedman: So as I understand our need here, we have two adoptions to make. Support the Amendment and we support the Resolution.

Commissioner Davis: When we do the Resolution, it adopts the Amendment.

Commissioner O'Neal: I think Senator Horn, as Chairman of the Transportation Committee, we ought to pursue some of these issues a little further. One of them is the question, we talked about the study part which was one of his points, the other one I wondered about was he saying that putting Sound Transit on the list as a signatory is somehow disruptive, I wonder if somebody can address that. What is that?

Commissioner Maher: Didn't we replace Metro with Sound Transit?

Commissioner O'Neal: They are not the same?

Chair Stedman: No. They are not the same.

Commissioner Fisher: These are separate entities, with separate governance.

Commissioner O'Neal: How do you deal with this, what is the response to Senator Horn.

Commissioner Davis: What happened is the other participants, from the original MOU decided it was smart to add Sound Transit, because Sound Transit was the one that was trying to change the situation, they were the ones making the proposals on the HOV lanes. We might have made them, and it was our staff's idea really, it got into the staff from our idea, but it was a consent of that group to add Sound Transit to itself. Out of simple good sense because they are a primary actor in this issue and will be a primary actor in this link corridor.

Commissioner O'Neal: Sound Transit also did not exist in 1976.

Commissioner Fisher: Not until 1996.

Commissioner Forner: The issue that Jim had is that we haven't taken Metro off.

Commissioner Davis: But both are using it.

Commissioner Forner: So that was not a valid concern?

Commissioner Davis: No, both bus systems are using it.

Commissioner Fisher: And both are concerned with HCT. Metro buses and Sound Transit with buses and light rail. They are both concerned with it.

Commissioner O'Neal: What does the term HCT embrace?

Commissioner Davis: Ruth defined that in Legislation which has set the law on that.

Commissioner Fisher: I can not remember how we defined it.

Commissioner Davis: It specifically state more efficient and effective than buses and its own exclusive guide way. The touch mark legislation is exclusive guide way, it could be buses, rail, monorail. Exclusive guide way is a critical thing, inclusive right of ways critical thing, distinguish it from other HOV lanes, from anything else, that was a touch stone.

Commissioner Forner: It is exclusive right of way, not guide way.

Commissioner Davis: You are right. It may or may not be a guide way. I really am sympathetic with Jim's concern, there is a legitimate concern on what happens to Mercer Island when all this happens, Mercer Island over the years has agreed that the Regional needs were such that they should not try to preserve permanently Mercer Islands special access to those middle lanes, which of course MOU, you all need to know that the MOU was the basis upon which that project was built, the Secretary, I was his regional representative at the time this decision was made. He had a lot of pressure not to approve it from some environmental folks and some folks who thought it was too expensive, and he approved it on the basis of all the local agreement as represented the MOU. So the MOU – without that I don't think there would have been an I-90 built.

Secretary MacDonald: And you are not talking about the Secretary of WSDOT, you are talking about the Secretary of Federal Transportation.

Commissioner O'Neal: So you are saying the federal money would not have been there and there is almost a contractual relationship there.

Commissioner Davis: The EIS was based on the MOU and the decision was based on the MOU, it was critical in getting that project built. Second point I want to make is that Jim has two major objections, one is he talks about you ought to let the people of Mercer Island express their opinion because they may reverse the Council, I think we have legal opinion that no matter how they express their opinion, it is unlikely to legally reverse the Council, courts might do different on that, but I think is what every City Attorney involved in this Mercer Island, Bellevue, Seattle, King County all have agreed that that is the case. And so does Steve. The implication is, just wait until that happens and then do something, but no you can not do it then either, because you haven't met his second test, which is you have to go through a lot more process before you can say it ought to be high capacity transit, and the problem with that is, that has been the plan for a long time. But if you took his argument literally, you wouldn't make a decision for years until you went through that again. And we would not get R8A in the meanwhile, because R8A decision by Seattle to accept the additional capacity which R8A will put into the City of Seattle, was based upon, OK we will reluctantly accept that although we have said no, we will accept that now, if you will commit

to the mass transit conversion of the middle lanes, which we all agreed to a long time ago. And that was the price for admission. And that was part of the deal. It was a political deal, but it took five years to get there. My concern with not acting on it, there is no place else to go. We will have only chaos, there will be no regional decision on what happens in this corridor in and it may affect the 520 corridor which has also been on the table and it heirs no way possible that this Commission can say ‘OK Mercer Island you are permanently entitled to those middle lanes we changed our mind’, that is a political and irrational impossibility.

Commissioner O’Neal: That is where I have a problem. If we went down the line with Jim Horn on this we are still – there is no answer.

Chair Stedman: That is why I think as a Commission, that we should even consider a delay for the sake of delay, for the sake of delay, which will eventually be the case. One delay offers opportunity for another one for a different reason. The idea, and I have expressed this view to Senator Horn, that the integrity of this Commission is at stake here a little bit, because if we follow what was given as our responsibility, we will act on it and failing to act just tells everybody we are unwilling to do what it is our responsibility to do. I hope we can move ahead. Comments? Questions?

Commissioner Forner: I want to make a statement. I will support this if there is two things that I think I am clear on are correct. One is that we are supporting the Resolution that provides for a dedicated right of way capacity in the configuration, it does in no way does it act as a preferred alternative for rail or a specific type of ...

Commissioner Davis: That is absolutely correct.

Commissioner Forner: The other issue is, I think I heard Ruth say, that Sound Transit and Metro are acting as one agency when they respond to this, is that correct.

Commissioner Davis and others: No. They are separate. King County might have been an actor even if it didn’t do Metro as a regional government, so King County was there wearing two hats in effect. Even if you said Metro wasn’t there, King County would have been there on exactly the same basis, it did not affect the number of actors.

Commissioner Forner: Because Metro is now under King County, it used to be separate agency and is now under King County. OK.

Commissioner Davis: Yes, Metro and King County were originally on it, and so in effect you added Sound to replace Metro, but Metro is still part of King County so it doesn’t matter.

Commissioner Forner: I think Doug and Agnus assured me when we went into the side bar, assured me that any future decision would be based on a full EIS with WSDOT and Sound Transit and go through the process that any big project we move through would go through.

Portion of September 16, 2004 Regular Commission Meeting Minutes regarding Agenda Item #9, Consideration of I-90 Two-Way Transit and HOV Project and the Amendment to the 1976 I-90 Memorandum of Agreement.

Commissioner Maher: *I call for the question,*

Chair Stedman: *Before we go to the question, because of our interest in giving fairness and opportunity to have a side bar, I would ask Steve to write a little item that can go into our Minutes, not into the Resolution, so as soon as we adopt the Resolution, then I am going to ask Steve to give you his verbiage as a good legal lawyer would do.*

Chair Stedman: *I have heard the question and it has been seconded. All in favor say "Aye".*

Commissioners: Aye.

Chair Stedman: *Contrary - Nay.*

Silence.

Chair Stedman: *It is a unanimous decision.*

Chair Stedman: *Steve could you tell us what we can write into our Minutes that will of value.*

Mr. Reinmuth: *I have been asked to note that the Minutes should reflect that what I said earlier, es any Commission Resolution can be revisited, could be revisited, by the Commission if any concurrence by any party is found by a court to be unlawful. And so the Minutes can reflect that if that is the Chairs desire and the Commission's desire.*

Chair Stedman: *The key word is found by the court to be unlawful.*

Commissioner Davis: *And Could be reconsidered.*

Chair Stedman: *And could be, it is not will be, it is could be. So that permits in language, we have that ability anyway, we want to put it into the Minutes to record that we have discussed...a motion to that effect would be helpful.*

Commissioner O'Neal: *I am not sure it is necessary, but I will move that.*

Chair Stedman: *Well. I don't know if that is necessary, we will take it out if it is not necessary. Do you have a second.*

Commissioner Forner and Commissioner Barnes: *yes.*

Chair Stedman: *All in favor say ‘Aye’.*

Commissioners: “Aye”

Chair Stedman: *Contrary – Nay.*

Silence.

Chair Stedman: *Thank you very much.*

Chair Stedman: *Speaking to the issue we just resolved, it will be an insertion after approving Resolution 667, the Commission voted to reflect in the meeting minutes that any Commission Resolution could be revisited if a court determines that a party’s concurrence was unlawful. It was moved by Mr. O’Neal, seconded by Commissioner Forner and passed. And we voted earlier for the Resolution, and that was Michele and you, Dan. That language will appear in the minutes.*

(Verbatim text ends)-----

WTP – CONTRIBUTING TO A STRONG ECONOMY AND GOOD JOBS

Charlie Howard, Director of Strategic Planning and Programming, outlined the five topics within this portion of the WTP he was about to discuss, including an overview of Washington’s Economy, Existing Policy Direction, What we know about Transportation’s Role in the Economy, Examples of Transportation/Economic Development Projects and a summary of the whole picture.

Overview of Washington’s Economy & Existing Policy Direction

Mr. Howard mentioned that the basic fundamental question for this topic is: What investments in new facility and system assets can help support the state’s economic vitality and strengthen the job picture? He pointed out the obvious links to transportation’s role in supporting the economy is providing basic access, moving freight and getting employee’s to work, however measuring this role is difficult.

There is much disagreement in the literature regarding the connection and the tools to measure it, with limited data available. Transportation issues already discussed in the WTP addressing the economy are freight issues and how Washington moves goods, Bottleneck and chokepoint issues on how to add system capacity to improve system productivity through targeted approaches, restoring system efficiency through operational approaches, increasing safety and reducing the societal costs of accidents, and finally contributing to health and the environment. Mr. Howard overviewed data related to the structure of Washington’s Economy regarding employment in the Agricultural industry, Manufacturing industry, Aerospace and Technology. He explained Washington is predicted to develop a more stable income growth, particularly in relation to technology and a more service based economy.

Mr. Howard discussed the recent study of Economic Clusters by Washington State Department of Community, Trade and Economic Development (CTED), which supports the idea that the competitiveness of key industry clusters has a direct link to the economic success of a region. These economic clusters consist of a lead or final product industry and that supplier's industry, often within a region of the state. He reviewed Washington's economic clusters, which are ranked by Gross Business Income and Employment, and how transportation relates to them. Mr. Howard noted the Department is recommending a partnership with CTED, to identify the transportation needs of different clusters and how to better tie investments into supporting economic trends.

Existing Policy Direction

Governor Locke convened the Washington Competitiveness Council in 2000, to examine Washington's ability to compete in the global economy of the 21st century. From the issues the council considered, transportation problems in our state was recognized with this recommendation, "the most important competitive investment the State of Washington can make is to improve its transportation infrastructure. The Economic Development Commission was developed in 2001 by legislature to update the Statewide Economic Vitality Plan for Washington State, recognizing areas where government can or should contribute to enhancing the economy. This Commission is using the Economic Cluster information from CTED and they have identified goals including infrastructure, quality of life and business climate. Commissioner Stedman requested that Elizabeth Robbins, Manager of Policy Development and Regional Coordination, provide Transportation Commissioners with the data developed from the Economic Development Commission. He noted that it would be beneficial to Commissioners to use when making final decisions regarding the Economic Portion of the WTP. Mr. Howard mentioned that there are a number of parties involved in policy direction regarding economic development.

Role of Transportation in the Economy

Mr. Howard explained there is an abundance of literature regarding transportation's role in the economy, though controversial. The Department recognized research done by Nadiri and Mamuneas, which identified the contribution between capacity expansion and growth productivity in the economy. The construction of I-90 significantly contributed to productivity across the State of Washington supporting the economy. Mr. Howard reviewed the four economic benefits of transportation investments, including basic user benefits, jobs from project construction, and economic productivity at the state level and economic productivity at the local level.

Mr. Howard pointed out that other factors may overshadow transportation investment and in order to grow the state's economy, transportation investment should be targeted at generative industries rather than redistribute.

Examples of Transportation/Economic Development Projects

Transportation projects have historically resulted in more than one outcome. Mr. Howard reviewed a list of projects that were driven by or resulted in some form of economic

development at the local or regional levels. He noted that projects are grouped into three categories of primary project drivers, traditional transportation projects, economic development at the local or regional level and tourism. He briefly reviewed projects under each category, noting changes in scope and outcome benefits of the project that resulted in economic benefit. In summary, Mr. Howard stated, the link between transportation and the economic development is manifest. Transportation is necessary to a strong economy, providing access to business and jobs, and moving freight and commerce. He pointed out that measuring transportation's success in economic development is difficult, however CERB is making an effort to document supportive information which will be in their 2004 Legislative Report. It is recognized that traditional transportation projects often have additional economic development benefits; targeted economic development projects focus on existing or secure development, helping ensure success; and the transportation system is critical to Washington's tourism industry. Mr. Howard stated that the economy is shifting to a greater share in the service economy and WSDOT needs to identify and support the transportation needs. WSDOT recognizes the need to work closely with CTED to evaluate the transportation needs of industry clusters to support the overall state economic development direction. Finally, reducing delay, through capital or operating programs, can improve economic productivity for Washington's business.

BUILDING FUTURE VISIONS

Charlie Howard introduced Colleen Jollie, Tribal Liaison Office, Director, who talked about the special efforts being made to work with the Tribes to find out the tribal transportation needs and work to fit them into the WTP. Ms. Jollie reported that the Tribal Liaison Office has been working with the Transportation Planning Office and the Tribal Transportation Planning Organization (TTPO) all summer to pull together information collected from 25 of the 29 Tribes in a survey. The survey contained 132 questions and issues. The largest benefit from the survey was discovering the lack of data available, that the tribes are wanting to capture and collect, they simply do not have data inventory collected for use in collaborative planning and developing systems that work together. She explained that this information was presented to FHWA, a new expanded survey is being generated, allowing for more research and data collection to find out jurisdictional issues on the road systems on reservations. She noted at the planned October conference in Spokane, they will be presenting information from the survey and launching a bigger, more in-depth project to narrow the gap. Mr. Howard mentioned that the Department is proud to be working with the tribes, there are few models of State DOT's working with tribes and WSDOT is proud to have received a federal grant to augment the grant with the TTPO.

Mr. Howard stated that WSDOT wanted to create a place in the WTP for ideas in the future. Given the focus of the WTP is to develop an investment program that is limited to a financial constraint.

There are a lot of ideas for the State beyond the financial constraint, the Department is trying to include those things that are beyond our grasp, yet within our sight to show these things exist and are recognized.

One of the future ideas the Department is looking at is the High Capacity Transit concept, which is being considered in the three large areas in the State; Spokane, Clark County and the Puget Sound – Sound Transit system. Mr. Howard briefly reviewed each of the three areas and the proposals. He also explained how projects connect with Transit Oriented Development (TOD). For example, the Spokane University City preliminary planning by Spokane Light Rail suggests a new town center retail street to provide the focus of the transit supportive development in the University City area. Similar market designs are being created for 8 areas in the Seattle area as well, creating a walking link to the transit centers. Mr. Howard pointed out an email Secretary MacDonald received this week regarding an upcoming ASHTO meeting, which will be discussing linking land use with transportation.

Another feature of the future visions within the WTP is Efficient Transportation Strategies, using the idea that you can provide efficiency to the demand side of transportation. These would include using vanpools, carpools, allowing for telecommuting, and things of that nature. Mr. Howard reviewed transportation projects linked to transit projects that are implemented into the future vision of the WTP as well as projects that are currently moving ahead, including Direct Access Ramps, HOV lanes, integrating pedestrian and bicycle into daily transport, and Highway System Expansion. He reviewed projects in each category that are mostly funded and some that are not funded yet, but within the vision of the WTP. Mr. Howard noted that a substantial amount of HOV lanes will be added across the State in the next few years, specifically in the Puget Sound, mostly funded by the Nickel package. He pointed out that there is \$39 billion worth of expansion proposals in Washington State. He noted the Alaska Way Viaduct and the SR 520 Bridge are both among the \$39 billion in proposals. Mr. Howard outlined ideas that have been or are being looked at as possibilities of future projects, including ideas for new bridge structures in the Central Puget Sound and multi-function corridors, again Mr. Howard reminded the Commission that the vision includes looking beyond our grasp but within our sights.

Mr. Howard brought forward the issue of serving Freight Preservation needs. He posed the ongoing question of should we, can we afford to and who should pay for preservation of the short-line rail system. Other rail issues to be addressed are improvement to rail sights, for instance, the Port of Vancouver, the Canada and USA Border Rail Crossing, the Columbia River Rail Bridge and the basic ongoing problem of capacity expansion. He mentioned the need to implement 'weigh in motion' stations across the state for trucks. In regards to Commercial Vehicle Information Systems and Networks (CVISN) he noted WSDOT has applied an incremental approach with the vision of creating a paperless permitting, tracking and sharing of data within the national system for commercial vehicles. A few other ideas for intermodal efficiencies and connections for serving freight include, rail truck parks, short sea shipping and a fast corridor program. Mr. Howard reviewed the visions for improving Commuter and Intercity Passenger Rail, involving the Sounder Commuter Rail Program and Amtrak's Long Distance and Cascade Services.

Mr. Howard introduced the concept of transforming the way we are traveling; as vehicles change our roads will be changing to accommodate changing needs of the roadway systems.

He mentioned Secretary MacDonald's comment on the aspect of thinking 'how can we anticipate what is going to be happening in the future and get ready now'. He reviewed future concepts being considered in regards to 'smart vehicles' and 'smart roadways' and how they affect planning in the Department. The way vehicle technology is improving, it creates more efficient highway system. Mr. Howard discussed aspects of Improved Roadway Management and Driver Information Systems that will also transform the way we travel. He also discussed how improved vehicle technology creates energy and air quality efficiency with the use of hybrid vehicles, alternative fuels and fuel cells. He noted that the Department is already looking at how the use of these vehicles will change transportation economics in regards to revenue. The Department is looking at very different tolling options that are being considered in different parts of the world, such as system-wide tolling, segment tolling, cordon tolling and high-occupancy toll lanes. Currently WSDOT is working on a pilot project on SR 167 implementing HOT Lanes as an alternative use of HOV lanes that will yield revenue for transportation.

Chair Stedman and Commissioners expressed complimentary thoughts to Commissioner Aubrey Davis for his long service to Transportation in Washington State and his positive impact to the Transportation Commission over the years.

The Commission meeting adjourned at 5:00 p.m., on September 16, 2004.

WASHINGTON STATE TRANSPORTATION COMMISSION

DALE STEDMAN, Chair

DANIEL O'NEAL, Vice-Chair

EDWARD BARNES, Member

RICHARD FORD, Member

ELMIRA FORNER, Member

A. MICHÈLE MAHER, Member

DOUGLAS MACDONALD, Ex-Officio Member
Secretary of Transportation

ATTEST:

JENNIFER ZIEGLER, Administrator

DATE OF APPROVAL